

XII. INTERSTATE SUBSCRIBER LINE CHARGES AND CARRIER COMMON LINE CHARGES

A. Overview

750. The Act mandates that universal service support should be explicit¹⁹³⁰ and requires that such support be recovered on an equitable and non-discriminatory basis from all providers of interstate telecommunications services.¹⁹³¹ Consistent with our plan to make support mechanisms explicit, we begin here to take steps towards reforming the existing mechanisms for the recovery of subscriber loop costs¹⁹³² -- the subscriber line charge (SLC) and the residual carrier common line (CCL) charges, which include long term support (LTS) payments -- to make them consistent with universal service goals and the development of competitive telecommunications markets. We take other, related steps in the companion access charge reform docket, and expect to revisit issues related to loop cost recovery in light of further recommendations from the Joint Board in this proceeding and the Separations Joint Board.

751. We agree with the Joint Board that the existing LTS payment structure is inconsistent with the Act because contributions to universal service must be equitable and non-discriminatory, and available to all eligible telecommunications carriers. We therefore concur with the Joint Board's conclusion that LTS should be removed from the interstate access charge system. We provide, instead, for recovery of comparable payments, on a per-line basis, from the new federal universal service support mechanisms. These payments will also be available to eligible competing LECs for each customer won from ILECs that are currently receiving support.

752. We adopt the Joint Board's recommendation, based on concerns about affordability, not to raise the SLC cap for primary residential and single-line business lines (currently \$3.50). Our pending access charge reform proceeding addresses the SLC cap for other lines and changes to the CCL charge structure.

¹⁹³⁰ 47 U.S.C. § 254(e).

¹⁹³¹ 47 U.S.C. § 254(d).

¹⁹³² "Subscriber loops" or "loops" are the connection between the telephone company's central office and the customer's premises. In the *Local Competition Order*, the Commission defined the loop, for unbundling purposes, as "a transmission facility between a distribution frame, or its equivalent, in an ILEC central office, and the network interface device at the customer premises." *Local Competition Order*, 11 FCC Rcd at 15691. Currently, 25 percent of the total cost of each ILEC loop is allocated to the interstate jurisdiction, 47 C.F.R. § 36.154(c), although interstate traffic actually accounts for only about 15 percent of loop usage. See *1996 Monitoring Report* at tbl 4.7.

B. LTS Payments**1. Background**

753. Section 254(b)(4) establishes the universal service principle that "[a]ll providers of telecommunications services should make an equitable and nondiscriminatory contribution to the preservation and advancement of universal service." Section 254(d) requires that "[e]very telecommunications carrier that provides interstate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, to the specific, predictable, and sufficient mechanisms established by the Commission to preserve and advance universal service." Section 254(e) further specifies that any universal service support "should be explicit," and the Joint Explanatory Statement indicates that the requirement that support be explicit serves the "conferees' intent that all universal service support should be clearly identified."¹⁹³³

754. Currently, the Commission's separations rules assign 25 percent of ILECs' loop costs to the interstate jurisdiction,¹⁹³⁴ which ILECs recover, pursuant to the Commission's rules, through SLCs and CCL charges.¹⁹³⁵ Formerly, all ILECs had to pool their interstate loop costs to set a uniform, nationwide CCL charge.¹⁹³⁶ When individual ILECs were allowed to leave the pool in 1989, departing carriers were required to pay LTS to prevent the CCL charges of small, higher-cost ILECs that remained in the pool from rising significantly above the national average. The ILECs that make LTS payments (i.e., the larger, lower-cost ILECs that have left the pool since 1989) contribute to LTS and recover the revenue for their

¹⁹³³ Joint Explanatory Statement at 131.

¹⁹³⁴ 47 C.F.R. § 36.154(c). The jurisdictional separations process divides between the state and federal jurisdictions the costs of those portions of the ILECs' telephone plant that are used for both interstate and intrastate services. Each jurisdiction then specifies how rate-regulated ILECs may recover the costs assigned to that jurisdiction. The Commission recently held a meeting of the Separations Joint Board to hear testimony and discuss whether the Commission's jurisdictional separations rules should be reformed. *See* Meeting of the Federal-State Joint Board on Separations, CC Docket No. 80-286 (February 27, 1997).

¹⁹³⁵ ILECs recover their interstate-allocated loop costs through the combination of the SLC and the CCL charge. The SLC is a flat, monthly charge that ILECs assess directly on end users of telecommunications services. The CCL charge is a per-minute charge that ILECs assess on IXC's. Both SLCs and CCL charges are part of the Commission's interstate access charge structure, which we are reforming in our companion *Access Charge Reform Order*.

¹⁹³⁶ *See* NPRM at para. 115. NECA administers the national loop-cost pool, and files a CCL tariff for pool participants.

payments by increasing their own CCL charges.¹⁹³⁷

755. The Joint Board agreed with the NPRM's tentative conclusion that the existing LTS system constitutes an impermissible universal service support mechanism. The Joint Board concluded that the current LTS system is a universal service support mechanism that is inconsistent with section 254(d)'s requirement that universal service be collected on a non-discriminatory basis from all providers of interstate telecommunications services.¹⁹³⁸ Accordingly, the Joint Board recommended that LTS payments be removed from the access charge regime and that rural ILECs currently receiving LTS payments should instead receive comparable payments from the new universal service support mechanisms.¹⁹³⁹

2. Discussion

756. We agree with the Joint Board and commenters that LTS payments constitute a universal service support mechanism.¹⁹⁴⁰ LTS payments reduce the access charges of small, rural ILECs participating in the loop-cost pool by raising the access charges of non-participating ILECs. Like the Joint Board, we conclude that this support mechanism is inconsistent with the Act's requirements that support be collected from all providers of interstate telecommunications services on a non-discriminatory basis¹⁹⁴¹ and be available to all eligible telecommunications carriers.¹⁹⁴² Currently, only ILECs participating in the NECA CCL tariff receive LTS support and only ILECs that do not participate in the NECA CCL tariff make LTS payments.¹⁹⁴³ We further conclude that the Joint Board correctly rejected some commenters' argument that the Act only requires *new* universal service support

¹⁹³⁷ See *id.* Formerly, CCL charges also recovered ILEC pay telephone costs. The Commission, pursuant to section 276, recently directed ILECs to remove these costs from their CCL charges. See Pay Telephone Reclassification Provisions of the Telecommunications Act of 1996, *Report and Order*, CC Docket No. 96-128, FCC 96-388 (rel. Sept. 20, 1996), Order on Reconsideration, FCC 96-439 (rel. Nov. 8, 1996) (*Pay Telephone Order*).

¹⁹³⁸ Recommended Decision, 12 FCC Rcd at 471.

¹⁹³⁹ Recommended Decision, 12 FCC Rcd at 471.

¹⁹⁴⁰ See Recommended Decision, 12 FCC Rcd at 471. See also Ad Hoc comments at 28; Ameritech comments at 15; Bell Atlantic comments at 22.

¹⁹⁴¹ 47 U.S.C. § 254(d).

¹⁹⁴² See 47 U.S.C. § 254(e). See also *supra* section III (adopting the universal service principle of competitive neutrality).

¹⁹⁴³ See 47 C.F.R. § 69.105(b)(3) - (4).

mechanisms to comply with section 254.¹⁹⁴⁴ We find that Congress also intended that we reform existing support mechanisms, such as LTS, if necessary.¹⁹⁴⁵ We therefore adopt the Joint Board's recommendation that LTS should be removed from access charges.

757. Although we conclude that the recovery of LTS revenue through access charges represents an impermissibly discriminatory universal service support mechanism, we agree with the Joint Board that LTS payments serve the public interest by reducing the amount of loop cost that high cost LECs must recover from IXC's through CCL charges and thereby facilitating interexchange service in high cost areas consistent with the express goals of section 254. Thus, although we remove the LTS system from the access charge regime, we adopt the Joint Board's recommendation that we enable rural LECs to continue to receive payments comparable to LTS¹⁹⁴⁶ from the new universal service support mechanisms as described more fully in section VII, above.

758. We find it unnecessary to alter our universal service contribution mechanisms to account for the observation that current LTS recipients would, under the support mechanisms that we adopt today, also contribute to those mechanisms.¹⁹⁴⁷ Congress provided that all telecommunications carriers providing interstate services should contribute to universal service support mechanisms.¹⁹⁴⁸ This contribution methodology will require contributions from current recipients of all carrier-based support programs, including high cost support and surrogate DEM weighting support.¹⁹⁴⁹ We discuss the recovery of universal service contributions in greater detail below.¹⁹⁵⁰

759. Because we expect to make other changes to our Part 69 rules in our pending access charge reform proceeding, we will promulgate the rules to effectuate the removal of

¹⁹⁴⁴ Recommended Decision, 12 FCC Rcd at 471.

¹⁹⁴⁵ See Recommended Decision, 12 FCC Rcd at 471.

¹⁹⁴⁶ As discussed *supra* in section VII, such payments will be computed on a per-line basis for each ILEC currently receiving LTS, based on the LTS payments that carrier has received over a period prior to the release of this Order. Such payments will be paid to any eligible telecommunications carrier, on a per-line basis, so that as competitors win the ILEC's subscribers they too will receive such payments.

¹⁹⁴⁷ See Puerto Rico Tel. Co. comments at 11.

¹⁹⁴⁸ 47 U.S.C. § 254(d).

¹⁹⁴⁹ See *supra* section VII.

¹⁹⁵⁰ See *infra* section XIII.

LTS contributions from CCL charges as part of those broader changes.¹⁹⁵¹

C. SLC Caps

1. Background

760. Currently, ILECs recover the portion of subscriber loop costs assigned to the interstate jurisdiction through a combination of the SLC and CCL charges. The Separations Joint Board recently met to begin reviewing and adapting the separations process to a competitive environment.¹⁹⁵² At present, the SLC is capped at \$3.50 per month for residential and single-line business customers and \$6.00 per month for multi-line business customers.¹⁹⁵³ Section 254(b)(1) establishes the principle that universal service should be available at affordable rates, and section 254(i) directs the Commission and the states to ensure that universal service is available at affordable rates.

761. The Joint Board found that the level of the SLC cap affects affordability.¹⁹⁵⁴ The Joint Board therefore recommended that there be no change in the current \$3.50 SLC cap for primary residential lines and single-line business lines,¹⁹⁵⁵ unless the Commission concludes that interstate carriers should contribute to the new federal universal service support mechanisms based on their intrastate as well as their interstate revenue. The Joint Board recommended, however, that if the Commission concludes that interstate carriers should contribute to the new federal universal service support mechanisms for rural, insular, and high cost areas based on their intrastate as well as their interstate revenue, the Commission should reduce the SLC to reflect the collection of LTS and pay telephone revenues from other sources.¹⁹⁵⁶ The Joint Board found that, if universal service assessments are based on all telecommunications revenues regardless of jurisdictional classification, the benefits of the recovery of LTS and pay telephone revenues from other sources should be shared equally between local customers, on the one hand, and long distance customers, on the other.

2. Discussion

¹⁹⁵¹ See *Access Charge Reform Order* at section VI.D.

¹⁹⁵² Commission Announces Meeting of Federal-State Board on Separations, *Public Notice*, CC Docket No. 80-286 (rel. Feb. 1997).

¹⁹⁵³ 47 C.F.R. §§ 69.104, 69.203.

¹⁹⁵⁴ Recommended Decision, 12 FCC Rcd at 472.

¹⁹⁵⁵ Recommended Decision, 12 FCC Rcd at 472.

¹⁹⁵⁶ Recommended Decision, 12 FCC Rcd at 473.

762. We agree with the Joint Board's conclusions that current rates generally are affordable, and that the level of the SLC cap implicates affordability concerns.¹⁹⁵⁷ We also concur with the Joint Board that determination of the proper level of the SLC cap depends upon a number of interdependent factors.¹⁹⁵⁸ The affordability of rates in coming years will be affected by future Joint Board recommendations and Commission action in this proceeding. The SLC also is part of the interstate access charge system, which we are currently reviewing in the companion access charge reform docket. As part of the recovery mechanism for interstate-allocated loop costs, the SLC cap also may be affected by the Separations Joint Board's recommendations. We therefore conclude that it would be inappropriate to make significant changes to the SLC cap for primary residential and single line business lines at this time. In light of these considerations, we adopt the Joint Board's recommendation that the SLC cap for primary residential and single-line business lines should remain unchanged.¹⁹⁵⁹

763. We acknowledge some commenters' arguments that a higher SLC might be a more economically efficient loop cost recovery mechanism. We conclude, however, that it would be inappropriate to make significant changes to SLC levels for primary residential and single-line business lines in light of the significant changes that are still underway in the federal universal service support system, the structure of our access charge regime, and possible future changes to the separations process. We also concur with the Joint Board that, particularly in light of these other factors, concern about affordability prevents us from increasing the SLC for primary residential and single-line business lines at this time. We also observe that the development of local competition will provide a market-based discipline on such end-user charges.

764. Despite the views of some commenters, we do not believe that our decision not to raise the SLC cap for primary residential and single-line business lines will necessarily perpetuate or exacerbate existing implicit subsidies. Lower SLCs result in a greater percentage of common line costs being recovered through the CCL charge. As long as CCL charges do not contain implicit subsidies, the recovery of costs through the CCL charge should not perpetuate or exacerbate implicit subsidies. In this proceeding, we have removed LTS, an existing implicit subsidy flow, from the CCL charge, and in the next section we address our efforts in our access charge reform proceeding to correct the economic inefficiencies resulting from the current usage-sensitive nature of the CCL charge.

765. We also decline to adopt Richard Roth's suggestion that we abolish the SLC to make telephone service more affordable for low-income consumers, because we have

¹⁹⁵⁷ Recommended Decision, 12 FCC Rcd at 473.

¹⁹⁵⁸ Recommended Decision, 12 FCC Rcd at 472-73.

¹⁹⁵⁹ Recommended Decision, 12 FCC Rcd at 472-73.

addressed the needs of low-income consumers through expansion of our Lifeline and Link Up programs in section VIII, above. Our current Lifeline program waives the entire SLC for qualifying low-income consumers, and in this Order we have increased Lifeline support and extended such support to all such low-income consumers.¹⁹⁶⁰ Thus, our actions today will reach the result Roth seeks for low-income consumers, while maintaining more economically efficient recovery of NTS loop costs.

766. The Joint Board made no recommendation with respect to the SLC caps for lines other than primary residential and single-line business lines.¹⁹⁶¹ Because the SLC is an interstate charge prescribed in Part 69 of the Commission's rules, we consider the SLC cap for those lines in our concurrent proceeding to reform our Part 69 rules.¹⁹⁶²

D. CCL Charges

1. Background

767. The Joint Board made no formal recommendation regarding the CCL charge and reached no conclusion as to whether the CCL charge represents an impermissible universal service support flow.¹⁹⁶³ The Joint Board suggested, however, that the Commission consider more efficient loop-cost recovery mechanisms, such as a flat, per-line charge assessed on the presubscribed interexchange carrier (PIC)¹⁹⁶⁴ or, if the end user declines to select a PIC, on the end user.¹⁹⁶⁵

2. Discussion

768. In our *Access Charge Reform Order*, which we also adopt today, the Commission adopts the Joint Board's suggestion that the CCL charge should be recovered in a more efficient manner.¹⁹⁶⁶ Specifically, in the *Access Charge Reform Order*, we create and

¹⁹⁶⁰ See *supra* section VIII.

¹⁹⁶¹ See Recommended Decision, 12 FCC Rcd at 473.

¹⁹⁶² See *Access Charge Reform Order* at section III.A.

¹⁹⁶³ Recommended Decision, 12 FCC Rcd at 474.

¹⁹⁶⁴ The PIC is the IXC that the customer has selected to carry 1+ long distance calls that are made from the customer's line.

¹⁹⁶⁵ Recommended Decision, 12 FCC Rcd at 474.

¹⁹⁶⁶ *Access Charge Reform Order* at section III.A.

implement a system of flat, per-line charges on the PIC.¹⁹⁶⁷ Where an end user declines to select a PIC, we adopt the Joint Board's suggestion that the PIC charge be assessed on the end user.¹⁹⁶⁸ As more fully described in our *Access Charge Reform Order*, we contemplate that, over time, all implicit subsidies will be removed from these flat-rate charges and that any universal service costs will be borne explicitly by our universal service support mechanisms.¹⁹⁶⁹

E. Replacement of LTS

769. As we have stated, rural carriers' LTS payments will be replaced with comparable, per-line payments from the new universal service support mechanisms on January 1, 1998.¹⁹⁷⁰ Because current LTS payments will cease on that date, our rules must be modified so that ILECs that currently contribute to LTS also will stop making LTS payments on that date. LTS contributors currently recover the revenue necessary for their LTS contributions through their own CCL charges. Because current LTS contributors will no longer be making such contributions after January 1, 1998,¹⁹⁷¹ their CCL charges should be adjusted to account for this change. If we did not adjust CCL charges to reflect the elimination of LTS payment obligations, ILECs would recover funds through their access charges for which they incurred no corresponding cost; the result would be an inappropriate transfer of funds from IXC's or their customers to ILECs.

770. We requested comment in the access charge reform proceeding on how to effectuate these changes.¹⁹⁷² In the companion *Access Charge Reform Order*, we are effectuating the necessary changes to ILECs' CCL charges to account for the elimination of LTS contributions.

771. We also observe that the replacement of LTS with per-line support from the

¹⁹⁶⁷ *Access Charge Reform Order* at section III.A.

¹⁹⁶⁸ *Access Charge Reform Order* at section III.A.

¹⁹⁶⁹ *Access Charge Reform Order* at sections III.A., IV.A.

¹⁹⁷⁰ *See supra* section VII.

¹⁹⁷¹ If current LTS contributors provide interstate telecommunications services, they are obligated to contribute to universal service support mechanisms. 47 U.S.C. § 254(d). The per-line support that will replace LTS for rural carriers will come from these mechanisms. Thus, although current LTS contributors may continue to contribute to the mechanisms from which this support is provided, their contributions will be diluted substantially by the broader base of contributors to the new mechanisms. *See supra* section XIII.

¹⁹⁷² *See Access Reform NPRM*.

new universal service support mechanisms will affect our current rule that sets the NECA CCL tariff at the average of price-cap LECs' CCL charges, as our rules currently provide.¹⁹⁷³ The elimination of price-cap ILECs' LTS obligations will allow their CCL charges to fall, but there is no corresponding reason for a reduction in the NECA CCL tariff. Yet under our current rules, the NECA CCL charge would fall simply because of our regulatory changes to price-cap ILECs' LTS payment obligations. We must therefore establish a new method to set the NECA CCL tariff. We address this question, too, in the access charge reform proceeding.

¹⁹⁷³ See 47 C.F.R. § 69.105(b)(2).